

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CRIMINAL APPLICATION No. 1555 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
?

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VALJI GOPAL PINDORIA & 1 - Applicant(s)

Versus

RAGHUVIRSINH P ZALA & 3 - Respondent(s)

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Appearance :

MR AR THACKER for Applicant(s) : 1 - 2.

RULE SERVED for Respondent(s) : 1 - 2.

PUBLIC PROSECUTOR for Respondent(s) : 3,

NOTICE UNSERVED for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 10/09/2007

ORAL JUDGMENT

By way of this petition under Articles 226 and 227 of the Constitution of India, the petitioners have prayed the following reliefs;

- (A) To issue a writ of Mandamus and/or a writ, order or direction in the nature of mandamus directing the respondent No.2 herein to take action against the respondent No.1 herein pursuant to the applications made to him by the petitioners which are at Annexure E and F respectively to this petition and further be pleased to award compensation to the petitioners for putting the petitioner No.2 in the custody by the respondent No.1 without any reason whatsoever;
- (B) To quash and set aside the complaint bearing chapter case No.248/97 of Bhuj Taluka Police Station pending before the Executive Magistrate, Bhuj - Kutch against the petitioners filed by the respondent No.1

2. At the outset, it is required to be noted that the petitioner No.1 and respondent No.4 have expired during the pendency of the proceedings. In view of the fact that respondent No.4, - original complainant has expired in the year 2001, the petitioners have prayed to quash and set aside the complaint bearing chapter case No.248/97 of Bhuj Taluka Police Station pending before the Executive Magistrate, Bhuj-Kutch will not survive and to that extent, the present petition is abated. As stated above, petitioner No.1 has also expired during the pendency of the present proceedings. Under the circumstances, so far as prayer in terms of para 19(A) is concerned, the respondent No.2 is directed to consider the

application submitted by the petitioner and to take an appropriate decision as early as possible, preferably within a period of four months from the date of receipt of this order. So far as prayer of the petitioner No.2 now to award the compensation is concerned, it will be open for the petitioner No.2 to initiate appropriate proceedings either by way of suit or any other proceedings, if available to the petitioner under the law and as and when such a proceeding is filed, the same shall be considered in accordance with law and on merits.

3. With this, the present petition is disposed of. Notice discharged. I.R., if any granted earlier stands vacated forthwith.

(M.R. Shah, J.)

shekhar/-